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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,093	04/19/2007	Harald Stallegger	4200.P0136US	5491
23474 7590 11/27/2007 FLYNN THIEL BOUTELL & TANIS, P.C. 2026 RAMBLING ROAD KALAMAZOO, MI 49008-1631				
EXAMINER NGUYEN, DUNG V				
ART UNIT		PAPER NUMBER		
3723				
MAIL DATE		DELIVERY MODE		
11/27/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/589,093

Applicant(s)

STALLEGGER, HARALD

Examiner

Dung V. Nguyen

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 09 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 16 is/are rejected.
- 7) ☒ Claim(s) 13-15 and 17-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 April 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The indicated allowability of claim 12 is withdrawn in view of the newly discovered reference(s) to Fletcher (USPN 4,450,653). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-7, 11 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Desmarecaux (FR 2,118,320) in view of Fletcher (USPN 4,450,653). Desmarecaux discloses a knife sharpening apparatus having two sharpening rods 7 pivot mounted at one end and guided in guides at the other end, loaded toward each other by springs 8, the rods 7 crossing in a knife insertion opening, the rods are spread apart against the force of springs 8, the rods 7 disposed and mounted in a housing 1 having front wall and back wall, parallel slots open at one end and closed at the other end, the rods mounted both on front wall and back wall, pivot pins provided on the rods on front wall and back wall (note Fig. 1-3, abstract). However, Desmarecaux does not disclose a stand linked to the housing for fixing the housing in the folded out position at an angle between the housing and the stand of less than 90°. Fletcher discloses a stand 10 links to the housing 66 for fixing the housing in the folded out position at an angle between the housing and the stand of less than 90° (note Fig. 1, col. 2, lines 60-

64, col. 3, line 65 to col. 4, line 4). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the knife sharpener of Desmarecaux with a stand disclosed by Fletcher in order to provide sufficient stability during use for effective sharpening.

4. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Desmarecaux (FR 2,118,320) in view of Fletcher (USPN 4,450,653). Desmarecaux, modified by Fletcher, does not disclose the length and width of the housing is about 5 to 10 cm and a thickness of is about 1 to 3 cm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to select a length and width of the housing is about 5 to 10 cm and a thickness of is about 1 to 3 cm, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

5. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Desmarecaux (FR 2,118,320) in view of Fletcher (USPN 4,450,653, further in view of Stallegger et al (US 2004/0014415). Desmarecaux, modified by Fletcher, does not disclose the springs are formed by wire. Stallegger et al discloses springs are formed by wire (note Fig. 1, paragraph [0025]). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the spring of Desmarecaux with the spring disclosed by Stallegger et al in order to spread the rods when pressed by the knife.

Allowable Subject Matter

6. Claims 13-15 and 17-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung V. Nguyen whose telephone number is 571-272-4490. The examiner can normally be reached on PHP Program.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Art Unit: 3723

/Dung V Nguyen/

Primary Examiner, Art Unit 3723

November 21, 2007